

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO**

Second Petition for Revocation of Supervised Release

Name of Offender: Michael Pohl
Docket Number: 1084 1:16CR00286-001JCH
Assigned Judge: Honorable Judith C. Herrera, Senior United States District Judge
Date of Original Sentence: 10/25/2016
Original Offense: 18 U.S.C. 922(g)(1): Prohibited Person in Possession of Firearms
Original Sentence: BOP: 37 months; TSR:3 years
Date Supervision: 07/10/2019
Recommended:
Date Supervision Expires: 07/09/2021
Other Court Action: 09/20/2018 – Modification of Conditions of Supervision following arrest for Driving While Intoxicated adding location monitoring with curfew component and alcohol monitoring.

10/24/2018 – Modification of Conditions of Supervision adding cognitive behavior treatment program, Thinking For a Change.

01/14/2019 – Petition for Revocation of Supervised Release filed as a result of a new law violation, Larceny. On February 20, 2019, the defendant's term of supervised release was revoked. He was sentenced to six (6) months incarceration followed by two (2) years of supervised release.

04/28/2021 – A Report on Offender Under Supervision was submitted to the Court due to the defendant ingesting heroin. On April 29, 2021, the Court ordered no action necessary on the matter.

PETITIONING THE COURT

To issue a warrant.

U.S. Probation Officer of the Court, Keary A. Fenstermacher, alleges the offender has violated the following condition(s) of supervised release.

<i>Violation Type</i>	<i>Nature of Noncompliance</i>
MC	<p>You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.</p> <p>On June 21, 2021, the defendant submitted a sample for urinalysis that tested positive for 6-Acetylmorphine, which is a marker of heroin use.</p>
SC	After initially reporting to the probation office, you will receive instructions from the court or

the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.

On June 24, 2021, the defendant was instructed to report to the United States Probation Office on June 25, 2021, at 9:00am. The defendant failed to report and failed to notify probation of any reason for his absence.

SC You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

On May 10, 2021, the defendant commenced employment at SolAero Technologies. On June 22, 2021, the defendant provided probation with pay stubs from May 21, 2021, June 4, 2021, and June 18, 2021, representing he was still employed at SolAero Technologies. On June 30, 2021, SolAero Technologies Benefits Manager Fair Johnson advised the defendant completed a one-day orientation on May 10, 2021, and subsequently failed to return to work thereafter. SolAero Technologies' records show the defendant was only paid one time, on May 18, 2021, for eight and one-half hours.

SC You must answer truthfully the questions asked by your probation officer.

On May 10, 2021, the defendant reported he commenced employment at SolAero Technologies. On June 21, 2021, the undersigned officer requested the defendant provide verification of this employment. On June 22, 2021, the defendant provided probation with pay stubs from May 21, 2021, June 4, 2021, and June 18, 2021, representing he was still employed at SolAero Technologies. On June 30, 2021, SolAero Technologies Benefits Manager Fair Johnson advised the defendant completed a one-day orientation on May 10, 2021, and subsequently failed to return to work thereafter. SolAero Technologies' records show the defendant was only paid one time, on May 18, 2021, for eight and one-half hours.

This marks the defendant's second positive drug test for illegal controlled substances since 07/01/2020. Pursuant to 18 U.S.C. 3583 (g)(4) if the defendant tests positive for illegal controlled substances more than three times over the course of one year, supervision must be revoked, and the defendant must be sentenced to a term of imprisonment. However, sentencing provisions authorize the Court, acting in accordance with sentencing guidelines, to exempt an offender who fails a drug test, from the mandatory revocation and imprisonment provisions, pursuant to 18 U.S.C. 3563(e) and 18 U.S.C. 3583(d).

The maximum statutory penalty: 2 years imprisonment; 3 years supervised release.

The revocation range of imprisonment: 6 to 12 months.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/02/2021.

Submitted:

Approved:

☒ Phone Approval



Keary A. Fenstermacher
Senior U.S. Probation Officer
Cell #: (505) 870-2366

Holland S. Kastrin
(505) 346-7274
Assistant U.S. Attorney

Date: 7/2/2021